REMARKS

In reply to the final Office Action of June 27, 2007, applicant asks that all claims be allowed in view of the amendments to the claims and the following remarks. Claims 1-34, 36, 38, and 40 are pending in this application, of which claims 1, 36, and 38 are independent. Claims 1, 36 and 38 have been amended, and claims 35, 37, and 39 have been cancelled. Support for the amendments is found at, for example, page 24, lines 14-16. No new matter has been added.

Rejection under 35 U.S.C. §103(a) based on Kurland in view of Nazaroff and Chung

Claims 1, 2, 11-15, 17-18, 21-23, 25-26, 30, 36, 38, and 40 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Kurland (U.S. Patent No. 4,603,232) in view of Shah-Nazaroff (U.S. Publication No. 2002/0053077) and in further view of the Chung (U.S. Publication No. 2004/0046021). Applicant requests reconsideration and withdrawal of the rejection because none of the applied references teach the features of amended independent claims 1, 36, and 38.

As amended, claim 1 recites a method of including , *inter alia*, preparing a first evaluation round that includes at least the polling request <u>and that enables a first user to select one of the entry elements multiple times</u>, receiving responses to the first evaluation round <u>that includes an indication of the number of times that the entry elements have been selected by the first user</u>, tallying the number of times that each of the entry elements has been selected by users participating in the first evaluation round, and <u>identifying, in response to tallying, a second pool of revised elements</u> that reflect more popular elements as identified in the first evaluation round such that the second pool includes fewer elements than the first pool (emphasis added).

Applicant respectfully requests reconsideration and withdrawal of this rejection because neither Kurland, Shah-Nazaroff, Chung, nor any proper combination of them, describes or suggests this feature.

Kurland is directed towards a method for electronically disseminating marketing surveys to panelists. See Kurland at col. 3, lines 47-55. The final Office Action acknowledges that Kurland "does not disclose that each second polling request including one of the subsets of

revised elements.." See final Office Action at page 3. As such, Kurland also does not disclose, among other things, "receiving responses to the first evaluation round <u>that includes an indication of the number of times that the entry elements have been selected by a first user</u> ... tallying the number of times that each of the entry elements has been selected by users ... [and] identifying, in response to tallying, a second pool of revised elements that reflect more popular elements as identified in the first evaluation round such that the second pool includes fewer elements than the first pool," as required by amended independent claim 1.

Shah-Nazaroff is similarly deficient. This lack of teaching in Shah-Nazaroff is recognized in the final Office Action, which notes, "Kurland and Shah-Nazaroff do not disclose that configuring at least one second polling request, each second polling request including one or more subsets of revised elements that reflect more popular elements in a first evaluation round, and each second polling request prompting a viewer to evaluate the revised elements selected from a second pool." See final Office Action, page 4.

Instead, the final Office Action turns to Chung to teach these features, pointing to paragraphs 169 and 171. Chung deals with electoral voting systems, and in particular, addresses electoral concerns for anonymity, transparency, and verification. See Abstract. For convenience, these paragraphs are included below.

> [0169] A further feature of voting machine VM is an optional instant run-off capability that may be utilized where a run-off election is required and an instant run-off election is authorized by the applicable election law. A run-off election may be required where the law requires that a candidate or question receive at least a given percentage, e.g., 40% or 50%, of the votes cast to be elected or passed, respectively, or where a super-majority, e.g., 60% or 75%, of the votes cast is required for election or passage. When this option is activated, each voter is requested to vote for the number of candidates corresponding to the number of offices to be filled, e.g. one for a typical office or more than one where plural seats on a board are to be filled, as first choice for such office. In addition, each voter is requested to vote conditionally for a number of additional candidates in order of preference and the conditional votes are to be counted if and only if a run-off is conducted. In tabulating the vote at the conclusion of the election, the first-choice votes cast are counted and the winner, if any, of the contest is determined. If no winner results under the applicable election standards, whether by receiving a predetermined plurality or a majority of the votes cast, then an election official may initiate tabulation of run-off election in which the votes for candidates not meeting the requirements for continuing to the run-off election are disregarded and the run-off vote is tabulated from the votes for the candidates remaining.

> [0171] By way of example, if three choices are allowed, each voter's first choice selection is assigned a value 3 (or a multiple of 3), each voter's second choice selection is assigned a value 2 (or a multiple of 2), and each voter's third choice selection is assigned a value 1. First, the votes (selections) assigned the value 3 (or the multiple of 3) are tabulated and a winner or winners are determined. If there is no winner or if there are less than the required number of winners, then the candidates to be eliminated are determined. For those voters whose voting records include selections with the number 3 associated with the eliminated candidate, that selection is disregarded and the selection associated

with the number 2 vote is next considered and tabulated in the run-off tabulation, if it is not for another eliminated candidate. If the number 2 selection is also eliminated, ten that voter's selection associated with the number 1 is tabulated in the run-off tabulation. In other words, those candidates that do not make the cut for the run-off are dropped from consideration and the balance of the voters' choices are moved up to be counted in a process that may be repeated until one candidate wins the election. In this manner, only one election need be conducted for conducting both an election and a run-off election.

As shown above, Chung describes a system that provides the ability to support runoff voting. Nevertheless, Chung is an electoral system that operates under the principle of one vote for one person. As a result, Chung cannot be considered to describe or suggest, "receiving responses to the first evaluation round that includes an indication of the number of times that the entry elements have been selected by the first user … tallying the number of times that each of the entry elements has been selected by users … [and] identifying, in response to tallying, a second pool of revised elements that reflect more popular elements as identified in the first evaluation round such that the second pool includes fewer elements than the first pool," as required by amended independent claim 1.

Because Kurland, Shah-Nazaroff, and Chung each fail to disclose or suggest "receiving responses to the first evaluation round that includes an indication of the number of times that the entry elements have been selected by a first user … tallying the number of times that each of the entry elements has been selected by users … [and] identifying, in response to tallying, a second pool of revised elements that reflect more popular elements as identified in the first evaluation round such that the second pool includes fewer elements than the first pool," their combination also fails to disclose or suggest at least this feature.

For at least these reasons, Applicant respectfully requests reconsideration and withdrawal of the § 103 rejection of independent claim 1 and its dependent claims 2, 11-15, 17-18, 21-23, 25-26, 30, 36, 38, and 40. Like independent claim 1, each of independent claims 36 and 38 feature similar limitations. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the § 103 rejection of independent claims 36-38, for at least the reasons discussed above with respect to claim 1.

Furthermore, like Kurland, Shah-Nazaroff, and Chung, Lett (U.S. Patent No. 5,539,822), Hattori et al. (U.S. Patent No. 5,719,619), Frost (U.S. Patent No. 5,041,972), Belmont (U.S. Patent No. 5,819,156), Inaba (U.S. Patent No. 5,880,789), McKissick et al. (U.S. Patent

Publication 2006/019066), Aras et al. (U.S. Patent No. 5,872,588), and Bejan et al. (U.S. Patent No. 5,465,384) also fail to describe or suggest receiving responses to the first evaluation round that includes an indication of the number of times that the entry elements have been selected by the first user ... tallying the number of times that each of the entry elements has been selected by users ... [and] identifying, in response to tallying, a second pool of revised elements that reflect more popular elements as identified in the first evaluation round such that the second pool includes fewer elements than the first pool, as recited by claim 1.

It is believed that all of the pending issues have been addressed. However, the absence of a reply to a specific rejection, issue or comment does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this reply should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this reply, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment.

No fee is believed to be due in connection with the filing of this paper on the Electronic Filing System (EFS). In the event that any fees are due, please apply any charges or credits to deposit account 06-1050.

Respectfully submitted,

Date: 9/27/2007

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